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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,262	06/29/2004	Ping-Chieh Kao	VIAP0105USA	4261
27765	7590	03/24/2008	EXAMINER	
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION P.O. BOX 506 MERRIFIELD, VA 22116			SINGH, HIRDEPAL	
			ART UNIT	PAPER NUMBER
			2611	
			NOTIFICATION DATE	DELIVERY MODE
			03/24/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

winstonhsu.uspto@gmail.com
Patent.admin.uspto.Rcv@naipo.com
mis.ap.uspto@naipo.com.tw

Office Action Summary	Application No. 10/710,262	Applicant(s) KAO ET AL.	
	Examiner HIRDEPAL SINGH	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-8,10,11,13,14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4-8,10,11,13,14 and 16-20 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the Amendment filed with a Request for continued examination on February 25, 2008. Claims 1, 4-8, 10-11, 13-14 and 16-20 are pending and have been considered below.

Response to Arguments

2. Applicant's arguments, see paragraphs 1 and 2 under Response: on page 6 of the amendment, filed February 25, 2008, with respect to claims 1 and 11 have been fully considered and are persuasive. The rejection based on 35 USC 103 of claims 1 and 11 and the dependent claims thereof, has been withdrawn.

Claim Objections

3. Claims 1, 4-8, 10-11, 13-14 and 16-20 are objected to because of the following informalities: claims 1 and 11 recites the limitation "wherein the basic... of the data rate of the least distortion-tolerant modulation format..." However, the part of limitation "...least distortion-tolerant modulation format..." is introduced for the first time in the independent claim(s). Examiner believes this is a typographical error, and should be changed to "...data rate of least distortion-tolerant modulation format..." Appropriate correction is required.

Allowable Subject Matter

4. Claims 1, 4-8, 10-11, 13-14 and 16-20 allowed.

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5. The following is a statement of reasons for the indication of allowable subject matter:

6. The prior art of record Teo et al. (US 6,985,545), Tsuie et al. (US 2004/0223449) and Karaoguz (US 2004/0029620) fails to disclose that the processing of the signal is stopped according to the second/first data rate when the information in the primary digital signal meets the first/second predetermined mode and furthermore the Prior art doesn't disclose or teach that the basic data rate is an integer multiple of the data rate of least distortion-tolerant or most complicated or most complex modulation format corresponding to one of the first predetermined mode and the second predetermined mode.

7. Upon further search a reference Nangia et al. (US 2007/0091866) was found that discloses system and method for multirate multiuser modulation where different users have different data rate that are integer multiples of one another (paragraphs 0066 and 0092), but fails to teach that the basic data rate is an integer multiple of the data rate of least distortion-tolerant or most complicated or most complex modulation format corresponding to one of the first predetermined mode and the second predetermined mode.

8. Therefore, claims 1 and 11 are allowable over the prior art as all the above limitations are recited in these claims.

Conclusion

9. This application is in condition for allowance except for the following formal matters: claims 1 and 11 recites the limitation "wherein the basic... of the data rate of the least distortion-tolerant modulation format..." this seems like a typographical error, and should be changed to "...data rate of least distortion-tolerant modulation format..."

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIRDEPAL SINGH whose telephone number is (571)270-1688. The examiner can normally be reached on Mon-Fri (Alternate Friday Off)8:00AM-5:00PMEST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shuwang Liu can be reached on 571-272-3036. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. S./

Examiner, Art Unit 2611

March 13, 2008

/Shuwang Liu/

Supervisory Patent Examiner, Art Unit 2611